

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SERGEI A. MOROSHKIN,

Plaintiff,

-against-

NATIONAL COUNCIL ON THE AGING
SENIOR COMMUNITY SERVICE
EMPLOYMENT PROGRAM (SCSEP), et al.,

Defendants.

23-CV-01301 (MMG)

ORDER OF SERVICE

MARGARET M. GARNETT, United States District Judge:

Plaintiff, who is proceeding *pro se*, brings this action under the anti-retaliation provision of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a), and 42 U.S.C. 1981, alleging that Defendants retaliated against him after he complained of discrimination by terminating his participation in the Senior Community Service Employment Program. The Court also construes the Amended Complaint as asserting claims under the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297, and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 to 131. *See McLeod v. Jewish Guild for the Blind*, 864 F.3d 154, 158 (2d Cir. 2017) (holding that district courts must construe a *pro se* plaintiff's complaint as asserting claims under laws of which factual allegations suggest a violation). By order dated March 1, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees (Dkt. No. 3).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants National Council on Aging Senior Community Service Employment Program and Siveem El-Nashar, the Senior Director of the Adult Workforce of SCSEP/New York City Department for the Aging through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the Amended Complaint is not served within 120 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service). Should Plaintiff fail to request an extension of time, the Amended Complaint as against National Council on Aging Senior Community Service Employment Program and Siveem El-Nashar may be dismissed for failure to prosecute, pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the Amended Complaint until the Court reviewed the amended complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 120 days after the date summonses are issued.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

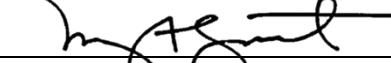
The Clerk of Court is instructed to issue summonses, complete the USM-285 forms with the addresses for Defendants National Council on Aging Senior Community Service Employment Program and Siveem El-Nashar, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is also directed to mail a copy of this Order and an information package to Plaintiff.

Plaintiff may receive court documents by email by completing the attached form, Consent to Electronic Service.²

Dated: March 1, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge

² If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

DEFENDANTS AND SERVICE ADDRESSES

1. National Council on Aging Senior Community Service Employment Program
251 18th St. South
Suite 500
Arlington, VA 22202
2. Siveem El-Nashar
Senior Director of the Adult Workforce
SCSEP/New York City Department for the Aging
2 Lafayette Street
New York, NY 10007